

Message Text

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PAGE 01 BUCAR 00090 081501Z

43

ACTION EUR-12

INFO OCT-01 ISO-00 L-03 EB-07 FCSC-01 TRSE-00 SP-02 SCA-01

CIAE-00 INR-07 NSAE-00 COME-00 /034 W

----- 018413

R 080922Z JAN 76

FM AMEMBASSY BUCHAREST

TO SECSTATE WASHDC 6116

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E.O. 11652: N/A

TAGS: EVIN, ETRD, CPRS, RO

SUBJ: PROPERTY CASES - DECREE 223

REF: (A) BUCH 5977 OF 11/20/75; (B) STATE 271094 150126Z NOV 75

1. SUMMARY. AMBASSADOR RECEIVED REVISED TEXT OF GOR LETTER DOON OPERATION OF DECREE 223. WE RECOMMEND THAT WE PROCEED ON BASIS OF THIS REVISED TEXT TO EXCHANGE LETTERS WITH GOR. END SUMMARY.

2. AMBASSADOR USED DECEMBER 22 MEETING WITH DEPUTY PM PATAN TO ENQUIRE ABOUT STATUS OF EXCHANGE OF LETTERS ON GSP. PATAN SAID ROMANIAN LAWYERS WERE STILL STRUGGLING BUT PROMISED TO GET BACK IN TOUCH SHORTLY. AS IT TURNED OUT HE WAS NOT READY UNTIL JANUARY 5. IN MEETING THAT DAY PATAN PRESENTED AMBASSADOR WITH REVISED DRAFT OF LETTER CONTAINING ASSURANCES ON APPLICATION OF DECREE 223. INFORMAL TRANSLATION OF TEXT OF BODY OF PROPOSED GOR LETTER FOLLOWS:

QTE IN CONNECTION WITH THE APPLICATION OF DECREE 223 OF 1974 OF THE COUNCIL OF STATE OF THE SOCIALIST REPUBLIC OF ROMANIA I HEREBY WISH TO INFORM YOU THAT IN THE SPIRIT OF THE JOINT DECLARATION ON ECONOMIC, INDUSTRIAL AND TECHNOLOGICAL COOPERATION BETWEEN THE SOCIALIST REPUBLIC OF ROMANIA AND ODTHE UNITED STATES OF AMERICA OF DECEMBER 5, 1973, STRUCTURES

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PAGE 02 BUCAR 00090 081501Z

BELONGING TO THE CITIZENS OF ONE COUNTRY WILL NOT BE TAKEN

BY THE OTHER COUNTRY WITHOUT PAYMENT OF PROMPT, ADEQUATE AND EFFECTIVE COMPENSATION. UNQTE

2. PATAN EXPLAINED THAT LETTER HAD BEEN CAREFULLY PHRASED TO MEET U.S. CONCERNS. GOR DRAFT THEREFORE INCORPORATED U.S. COMPENSATION FORMULA DIRECTLY, LINKING THIS TO JOINT STATEMENT OF DECEMBER 5, 1973 WHICH HAD REFLECTED SAME REFERENCE. WHILE GOR LAWYERS HAD GIVEN CAREFUL CONSIDERATION TO INCLUSION OF PHRASE "FAIR MARKET VALUE", CONCEPT DID NOT HAVE EQUALLY CLEAR MEANING IN CONTEXT OF VERY DIFFERENT ROMANIAN ECONOMIC AND SOCIAL SYSTEM THAT IT DOES IN US JURISPRUDENCE.

3. EXPRESSING APPRECIATION TO DEPY PM FOR HIS EFFORTS, AMBASSADOR OBSERVED THAT ACHIEVEMENT OF COMMON UNDERSTANDING WOULD SERVE INTEREST OF BOTH COUNTRIES. FROM U.S. STAND-POINT CAREFULLY ALRKEK OUT PRIOR EXCHANGE BETWEEN TWO GOVERNMENTS WOULD, AMBASSADOR POINTED OUT, LESSEN OR REMOVE RISK OF SUBSEQUENT WITHDRAWAL OF GSP ARISING FROM PROPERTY DISPUTES.

4. ON STATUS OF LAND ON WHICH "STRUCTURES" LOCATED, PATAN AND HS ASSOCIATES CLAIMED THAT QUESTION OF COMPENSATION DID NOT ARISE SINCE ROMANIAN CONSTITUTION AND LAWS GAVE OWNER OF PROPERTY ONLY USE OF LAND IN PERPETUITY BUT NOT RIGHT OF OWNERSHIP AND THEREFORE SALE. STATE OWNERSHIP OF LAND PRECLUDED COMMERCIAL PURCHASE AND SALE. AMBASSADOR RAISED HYPOTHETICAL EXAMPLE OF AMERICAN CITIZEN INHERITING PROPERTY, INCLUDING LAND, IN THOSE NON-COLLECTIVIZED RURAL AREAS WHERE OWNERS COULD PASS ON RIGHTS OF LAND TO HIS HEIRS. PATAN STATED AMERICAN HEIR WOULD HAVE RIGHT TO USE LAND BUT WOULD HAVE TO EXERCISE THAT RIGHT IN ROMANIA. PATAN OFFERED TO EXAMINE ANY SPECIFIC CASES WHICH HAD COME TO OUR ATTENTION AND IN MEANWHILE SAID HE WOULD HAVE HIS STAFF DOUBLECHECK LEGAL IMPLICATIONS OF THIS TYPE SITUATION.

5. QUESTION ALSO RAISED WITH PATAN WHETHER GOR IMPOSED ANY ABSOLUTE LIMIT ON COMPENSATION FOR PROPERTY WHICH IT TAKES. PATAN RESPONDED HE KNEW OF NO ARTIFICIAL LIMIT AND AGAIN OFFERED TO REVIEW ANY PROBLEMS WHICH HAVE ARISEN. LIMITED OFFICIAL USE

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PAGE 03 BUCAR 00090 081501Z

6. ACTION REQUESTED: WHILE PATAN'S PROPOSED LETTER DOES NOT IN INSELF RESOLVE ALL OF OUR QUESTIONS REGARDING OPERATION OF DECREE 223 WE ARE OF VIEW THAT PATAN'S REAFFIRMATION OF GOR COMMITMENT TO PRINCIPLE OF "PROMPT, ADEQUATE AND EFFECTIVE COMPENSATION" AND HIS WILLINGNESS TO REVIEW PERSONALLY DIFFICULTIES WHICH MAY ARISE PROVIDE, IN ABSENCE OF ACTUAL CLAIMS, REASONABLE ASSURANCE OF PROTECTION OF RIGHTS OF

U.S. CITIZENS. WE WOULD THEREFORE RECOMMEND THAT WE BE
AUTHORIZED TO PROCEED WITH EXCHANGE OF LETTERS. IN VIEW
OF FACT THAT CONCEPT OF "FAIR MARKET VALUE" HAS NO ADEQUATE
ROMANIAN EQUIVALENT WE WOULD ALSO SUGGEST THAT CORRESPONDING
PHRASE BE DROPPED FROM OUR RESPONSE.
BARNES

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: LAND, AGREEMENT DRAFT, PROPERTY PROTECTION, PROPERTY TITLES, NEGOTIATIONS, GENERALIZED PREFERENCES (TARIFFS)
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Copy: SINGLE
Draft Date: 08 JAN 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: morefirh
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
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Enclosure: n/a
Executive Order: N/A
Errors: N/A
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Margaret P. Grafeld
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04 MAY 2006

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